

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)
)
Schweitzer, Limor) Art Unit: 3694
)
Application No. 09/879,682) Examiner: Apple, Kirsten Sachwitz
)
Filed: 06/11/2001) Atty. Docket No.
) AMDCP005
For: SYSTEM, METHOD AND COMPUTER)
PROGRAM PRODUCT FOR PREPAID) Date: 07/08/2008
AND WIRELESS VOICE)
COMMUNICATION AND IP SERVICES)
)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATTENTION: Board of Patent Appeals and Interferences

REPLY BRIEF (37 C.F.R. § 41.37)

This Reply Brief is being filed within two (2) months of the mailing of the Examiner's Answer mailed on 05/08/2008.

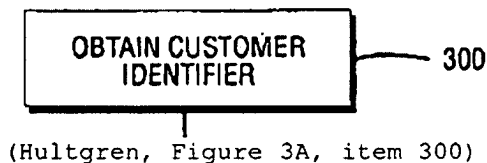
Following is an issue-by-issue reply to the Examiner's Answer.

Issue # 1:

The Examiner has rejected Claims 1-11, 18-28 and 35-36 under 35 U.S.C. 103(a) as being unpatentable over Hultgren (U.S. Patent No. 6,868,391), in view of Official Notice.

Group #1: Claims 1, 3-6, 11, 18, 20-23, 28 and 35

With respect to independent claims 1, 18, and 35, the Examiner has relied on item 300 in Figure 3A from Hultgren, as excerpted below, to make a prior art showing of appellant's claimed "prior to allowing wireless network voice communication and IP usage over a wireless network, receiving a request for a pre-paid debit account including payment therefor" (see this or similar, but not necessarily identical language in the aforementioned independent claims).



"At telepay TSN 30, upon initially handling the call customer communications, module 202 obtains a customer identifier (e.g., customer directory number) from the call signaling which sets up the call (see step 300 in FIG. 3A)." (Hultgren, Col. 6, lines 22-26, not specifically cited - emphasis added).

Appellant respectfully asserts that item 300 in Figure 3A from Hultgren simply teaches that "module 202 obtains a customer identifier (e.g., customer directory number) from the call signaling which sets up the call (see step 300 in FIG. 3A)" (emphasis added). However, simply disclosing that a customer identifier is obtained, in no way suggests "prior to allowing wireless network voice communication and IP usage over a wireless network, receiving a request for a pre-paid debit account including payment therefor" (emphasis added), as claimed by appellant.

In addition, the Examiner has argued that "it is inherent that [you] would...obtain a customer identification for those that request the payment transfer service or debit account."

Again, appellant respectfully disagrees, and emphasizes that simply disclosing that a customer identifier is obtained, in no way suggests “prior to allowing wireless network voice communication and IP usage over a wireless network, receiving a request for a pre-paid debit account including payment therefor” (emphasis added), as claimed by appellant. In fact, appellant respectfully points out that Hultgren actually discloses that “the customer merely dials on customer mobile station 60 the directory number of the telepay TSN 30,” that the “call is routed through PSTN 50, which includes mobile base station (BS) 52,” and that “upon initially handling the call customer communications, module 202 obtains a customer identifier” (Col. 6, lines 18-26).

Clearly, Hultgren discloses a situation where a customer utilizes a mobile station 60 to call a TSN 30, where such call is routed through a PSTN 50 that includes a mobile base station 52, which does not meet, and even *teaches away* from, appellant’s claimed “prior to allowing wireless network voice communication and IP usage over a wireless network, receiving a request for a pre-paid debit account including payment therefor” (emphasis added), as claimed by appellant.

Thus, even if “it is inherent that [you] would...obtain a customer identification for those that request the payment transfer service or debit account,” as alleged by the Examiner, Hultgren teaches obtaining such customer identification via a call made from a customer mobile station, which in fact *teaches away* from appellant’s specific claim language, as noted above. Appellant respectfully emphasizes that a *prima facie* case of obviousness may also be rebutted by showing that the art, in any material respect, teaches away from the claimed invention. *In re Geisler*, 116 F.3d 1465, 1471, 43 USPQ2d 1362, 1366 (Fed. Cir. 1997).

It appears that the Examiner has relied on an inherency argument regarding the above emphasized claim limitations. Appellant respectfully asserts that the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). “To establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a

certain thing may result from a given set of circumstances is not sufficient.” *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

In view of the arguments made hereinabove, any inherency argument has been adequately rebutted, and a notice of allowance or a specific prior art showing of such claim features, in combination with the remaining claim elements is respectfully requested. (See MPEP 2112)

In the Examiner’s Answer mailed 05/08/2008, the Examiner has “refute[d] the argument and [has drawn] attention to Hultgren Figure 3A, item 300” which the Examiner has stated “clearly shows that the customer is contacted.” Additionally, the Examiner has argued that “it is inherent that if in the later steps of 306, 314 & 316 Hultgren obtains authorization for a financial [institution] for payment that a request was made.”

Appellant respectfully disagrees and again notes that Hultgren merely discloses that “module 202 obtains a customer identifier (e.g., customer directory number) from the call signaling which sets up the call (see step 300 in FIG. 3A)” (emphasis added). Additionally, Hultgren teaches that “[a]t step 306, telepay TSN 30 determines the customer financial institution address and the customer account identifier at the customer financial institution” (Col. 6, line 66-Col. 7, line 1 – emphasis added). Further, Hultgren teaches that at “step 314, customer financial institution interface 208-1 is directed to send the customer financial institution an authorization assurance request message,” which “includes... a message type code” which “indicates that telepay TSN 30 is seeking to determine whether the customer financial institution 80 will authorize a funds transfer from the customer account in the amount of the transaction amount” (Col. 7, lines 21-34 – emphasis added). Further still, Hultgren teaches that “[a]s indicated by step 316 of FIG. 3A, if the authorization assurance message is negative (indicating that authorization is not granted), an invalid transaction notification is sent to customer mobile station 60” (Col. 7, lines 39-42 – emphasis added).

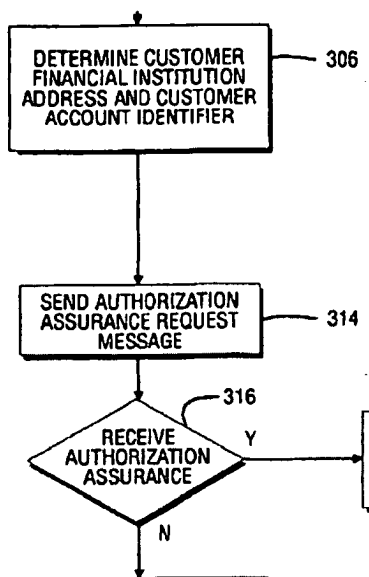
However, merely obtaining a customer identifier from a call in order to set up the call, determining a (preexisting) customer financial institution address and customer account number at the financial institution, sending an authorization assurance request message to the financial institution (to determine if a funds transfer will be authorized from the preexisting customer account), and determining whether authorization is granted, as in Hultgren, fails to disclose “prior to allowing

wireless network voice communication and IP usage over a wireless network, receiving a request for a pre-paid debit account including payment therefor” (emphasis added), as specifically claimed by appellant.

More specifically, Hultgren discloses that a customer account number already exists at a financial institution, and that an authorization assurance request message is sent by the telepay TSN to the financial institution to authorize a funds transfer from the preexisting customer account. This does not disclose “receiving a request for a pre-paid debit account including payment therefor,” much less “prior to allowing wireless network voice communication and IP usage over a wireless network, receiving a request for a pre-paid debit account including payment therefor” (emphasis added), as claimed by appellant.

Additionally, based on the Examiner’s above noted argument, it again appears that the Examiner has relied on an inherency argument regarding the above emphasized claim limitations. In view of the arguments made hereinabove, any such inherency argument has been adequately rebutted, and a notice of allowance or a specific prior art showing of such claim features, in combination with the remaining claim elements is respectfully requested (See MPEP 2112). Also, see *In re Rijckaert*, *In re Oelrich*, and *In re Robertson* hereinabove.

Furthermore, with respect to independent claims 1, 18, and 35, the Examiner has relied on items 306, 314, and 316 in Figure 3A from Hultgren, as excerpted below, to make a prior art showing of appellant’s claimed “prior to allowing the wireless network voice communication and the IP usage over the wireless network, enabling the pre-paid debit account in response to the request” (see this or similar, but not necessarily identical language in the aforementioned independent claims).



(Hultgren, Figure 3A, items 306, 314, and 316)

"At step 306, telepay TSN 30 determines the customer financial institution address and the customer account identifier at the customer financial institution. In particular, at step 306 the transfer coordination module 206 sends to the financial institution communication module 208 a signal which includes the current transaction code, the current customer identifier, and (optionally) the transaction amount." (Col. 6, line 66 to Col. 7, line 5, not specifically cited - emphasis added)

"The authorization assurance request message is routed by customer financial institution interface 208-1 over data network N to the customer financial institution address obtained at step 314. The authorization assurance request message, indicated as event E5 in FIG. 1, includes the transaction code, the customer account identifier, the transaction amount, and a message type code." (Col. 7, lines 24-30, not specifically cited - emphasis added)

"As indicated by step 316 of FIG. 3A, if the authorization assurance message is negative (indicating that authorization is not granted), an invalid transaction notification is sent to customer mobile station 60 (see step 318). Otherwise, as shown by step 320, the customer financial institution address and customer account identifier obtained from step 306, along with an indication of receipt of a positive authorization assurance message, are stored in the record for the current transaction in transaction database 220." (Col. 7, lines 39-47, not specifically cited - emphasis added)

Appellant respectfully asserts that items 306, 314 and 316 in Figure 3A from Hultgren relied upon by the Examiner merely disclose "determin[ing] the customer financial institution address and the customer account identifier at the customer financial institution" (emphasis added). Hultgren also discloses that "[t]he authorization assurance request message is routed ... to the customer financial

institution address obtained at step 314” (emphasis added). In addition, Hultgren discloses receiving “the authorization assurance message” in step 316.

However, determining the customer financial institution address and the customer account identifier in order to route the authorization assurance request message, as in Hultgren, simply fails to disclose any sort of enabling, let alone “enabling the pre-paid debit account in response to the request” (emphasis added), as claimed by appellant. Moreover, determining the customer financial institution address and the customer account identifier in order to route the authorization assurance request message, as in Hultgren, in no way suggests “prior to allowing the wireless network voice communication and the IP usage over the wireless network, enabling the pre-paid debit account in response to the request” (emphasis added), as claimed by appellant.

The Examiner has also argued that “items 306, 314 & 316...are all three more specific steps of enabling the payment transfer service or debit account.”

First, appellant respectfully disagrees and asserts that Hultgren simply teaches “assur[ing] that the customer account has sufficient funds to cover the transaction amount prior to effecting the transaction” (see Col. 7, lines 18-20), which does not specifically support the Examiners’ argument that Hultgren discloses “enabling the payment transfer service or debit account.” Second, appellant refers to the arguments made hereinabove with respect to items 306, 314, and 316 in Figure 3A from Hultgren and respectfully asserts that determining the customer financial institution address and the customer account identifier in order to route the authorization assurance request message, as in Hultgren, in no way suggests “prior to allowing the wireless network voice communication and the IP usage over the wireless network, enabling the pre-paid debit account in response to the request” (emphasis added), as claimed by appellant.

In the Examiner’s Answer mailed 05/08/2008, the Examiner has “refute[d] the argument and [has drawn] attention to Hultgren Figure 3A, 306, 314 & 316” which the Examiner has stated “show the financial transaction is completed,” where the “financial transaction is to pay a merchant for a service.” Further, the Examiner has argued that “in the case of the Appellant the service would be mobile usage (voice and IP)” and that “Hultgren, column 4, line 49... supports this argument with

an example that ‘\$100 US for a good or service’,” where “[t]his service is ‘enabled’ from a merchant once payment is received which is shown in Hultgren.”

Appellant respectfully disagrees. First, appellant respectfully points out that appellant clearly claims “prior to allowing the wireless network voice communication and the IP usage over the wireless network, enabling the pre-paid debit account in response to the request” (emphasis added). As a result, appellant’s language should be construed as claimed.

Additionally, appellant again notes that items 306, 314 and 316 in Figure 3A from Hultgren relied upon by the Examiner merely disclose determining a (preexisting) customer financial institution address and customer account number at the financial institution, sending an authorization assurance request message to the financial institution (to determine if a funds transfer will be authorized from the preexisting customer account), and determining whether authorization is granted. Additionally, Hultgren teaches a situation where a “customer wants to pay \$100US for a good or service, or for payment of a bill or invoice” (Col. 4, lines 48-50).

However, disclosing that a customer account number already exists at a financial institution, and that an authorization assurance request message is sent by the telepay TSN to the financial institution to authorize a funds transfer from the preexisting customer account, in addition to disclosing that such a situation may arise when a customer wants to purchase a good or service, as in Hultgren, fails to disclose, and in fact *teaches away* from, “prior to allowing the wireless network voice communication and the IP usage over the wireless network, enabling the pre-paid debit account in response to the request” (emphasis added), as claimed. Nowhere in the excerpts relied on by the Examiner is a pre-paid debit account “enabl[ed]... in response to the request,” (emphasis added), as claimed.

Furthermore, with respect to independent claims 1, 18, and 35, the Examiner has admitted that Hultgren does not specifically disclose appellant’s claimed “payment for the wireless network voice communication” (see this or similar, but not necessarily identical language in the aforementioned independent claims). However, the Examiner has argued that it is “inherent that any utility including a mobile phone company is disclosed in Hultgren,” and that “Hultgren specifically uses the example of ‘utility bill, for example’ (column 4, line 50).”

Appellant respectfully disagrees, and asserts that disclosing a situation where if a “customer wants to pay...for a good or service, or for payment of a bill or invoice (such as a utility bill, for example)...[then] the customer merely dials the directory number of the telepay” (see Col. 4, lines 48-50 of Hultgren – emphasis added), does not specifically suggest “wireless network voice communication,” as claimed by appellant.

Again, in view of the arguments made hereinabove, any inherency argument has been adequately rebutted, and a notice of allowance or a specific prior art showing of such claim features, in combination with the remaining claim elements is respectfully requested. (See MPEP 2112)

In the Examiner’s Answer mailed 05/08/2008, the Examiner failed to address appellant’s above arguments and has argued that “[t]he additional remarks for the additional claims simply repeat the details in Hultgren and requite the appellants claims.” The Examiner has further argued that “the examiner believes there [are] no specific examples or arguments and therefore moot.” Appellant respectfully disagrees and respectfully points out the arguments made hereinabove which clearly distinguish the prior art relied on by the Examiner. Thus, appellant requests a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features.

Additionally, in the Examiner’s Answer mailed 05/08/2008, the Examiner has generally argued with respect to Claim 1 that “[a]t the end of the day this claim is no more than a debit payment system for all service companies: first a customer asking for a service, the service provider asking for payment, payment being received and final giving the customer the service.” Additionally, the Examiner has argued that “[t]he service of the appellant is mobile service (voice and IP) but the process is the same [as] that for ever[y] service company in the world.” Further, the Examiner has argued that “Claim 1 not only reads on Hultgren but lots of prior art and more importantly it infringes on how millions of businesses are conducting business on a daily basis.”

Appellant respectfully disagrees. First, appellant respectfully points out that the Examiner has only rejected Claim 1 under 35 U.S.C. 103(a) as being unpatentable over Hultgren (U.S. Patent No. 6,868,391), in view of Official Notice. Appellant has clearly distinguished the prior art relied on by

the Examiner, as noted in the arguments above. Accordingly, instead of a mere allegation that “Claim 1 not only reads on Hultgren but lots of prior art” and that “it infringes on how millions of businesses are conducting business on a daily basis,” as suggested by the Examiner, appellant requests a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features.

Additionally, appellant notes that in independent Claims, 1, 18 and 35, appellant clearly claims “(a) prior to allowing wireless network voice communication and IP usage over a wireless network, receiving a request for a pre-paid debit account including payment therefor; (b) prior to allowing the wireless network voice communication and the IP usage over the wireless network, enabling the pre-paid debit account in response to the request; (c) collecting payment for the wireless network voice communication over the wireless network by billing against the pre-paid debit account; and (d) collecting payment for the IP usage by billing against the pre-paid debit account, wherein the IP usage is carried out using the wireless network” (see this or similar, but not necessarily identical language in the aforementioned independent claims-emphasis added), which is not taught by a general “debit payment system for all service companies” in which “first a customer asking for a service, the service provider asking for payment, payment being received and final giving the customer the service,” as asserted by the Examiner. Further still, appellant respectfully points out the arguments hereinabove which clearly show how the prior art reference fails to teach or suggest appellant’s claim language. As a result, appellant again respectfully requests a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features.

Further still, the Examiner has argued that “appellants own Admitted Prior Art (on page 4) talks about how billing system are used for ‘the purpose of charging for wireless network [voice] communication using the debit billing account.’” Also, the Examiner has argued that “[t]he debit billing account [is] what the appellant has in the independent claim” and that “[t]he appellant goes on the said that it ‘cannot be used to administer payment based on any type of IP specific usage’ but says nothing more.” In addition, the Examiner has argued that “[t]he examiner is confused about why IP billing is a problem and what this invention is doing to solve it, especially since claim 1 is for voice and IP usage?”

Appellant respectfully disagrees. First, it appears that the Examiner is mixing alleged deficiencies under 35 U.S.C. 112, with the current rejection under 35 U.S.C. 103(a). Second, appellant points out that the Examiner has misconstrued appellant's Specification. More specifically, Page 4, lines 1-5 of appellant's Specification states that "[i]n use, the approach takes the GPRS CDRs, collects them into the CDF, does some processing (such as mapping call-start with call-end) and sends the CDRs to the billing system 100" and that "[t]his is done for the purposes of charging for wireless network voice communication using the debit billing account." Further, Page 4, lines 7-15 of appellant's Specification states that "[w]hile such billing system 100 is ideal for charging for wireless network voice communication via a debit account, problems arise when the wireless network is used for data communication utilizing Internet Protocol (IP)," that "[t]he billing system 100 may use the debit account only for the amount of general wireless network voice communication, and cannot be used to administer payment based on any type of IP-specific usage," and that "[t]here is therefore a need for a technique of using a debit account for IP usage in a wireless network environment."

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on appellant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art reference excerpts, as relied upon by the Examiner, fail to teach or suggest all of the claim limitations, as noted above.

Group #2: Claims 2 and 19

With respect to Claim 2 et al., the Examiner has relied on item 60 in Figure 1 from Hultgren, with the description thereof excerpted below, to make a prior art showing of appellant's claimed

technique “wherein the request is received via a mobile cellular hand set, and the pre-paid debit account is enabled by a human operator.”

“The TSN (30) acquires a merchant identifier and transaction amount from a customer mobile station (60). The TSN (30) sends a transaction verification request message to both the customer mobile station (60) and the merchant terminal (70).” (Abstract - not specifically cited - emphasis added)

Appellant respectfully asserts that item 60 in Figure 1 from Hultgren merely discloses a customer mobile station that sends a merchant identifier and transaction amount to the TSN and, in return, the customer mobile station receives a transaction verification request message from the TSN. However, the mere disclosure of a customer mobile station that sends a merchant identifier and transaction amount, and receives a transaction verification request message, as in Hultgren, in no way suggests any sort of enabling, let alone a specific technique “wherein the request is received via a mobile cellular hand set, and the pre-paid debit account is enabled by a human operator” (emphasis added), as claimed by appellant.

In the Examiner’s Answer mailed 05/08/2008, the Examiner failed to address appellant’s above arguments and has argued that “[t]he additional remarks for the additional claims simply repeat the details in Hultgren and requite the appellants claims.” The Examiner has further argued that “the examiner believes there [are] no specific examples or arguments and therefore moot.” Appellant respectfully and points out the arguments made hereinabove which clearly distinguish the prior art relied on by the Examiner. Thus, appellant respectfully requests a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features.

Appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art reference excerpts, as relied upon by the Examiner, fail to teach or suggest all of the claim limitations, as noted above.

Group #3: Claims 7 and 24

art showing of each of the foregoing claim elements, in combination with the remaining claimed features.

Appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art reference excerpts, as relied upon by the Examiner, fail to teach or suggest all of the claim limitations, as noted above.

Group #4: Claims 8 and 25

With respect to Claim 8 et al., the Examiner has relied on the following excerpt from Hultgren to make a prior art showing of appellant's claimed technique "wherein a balance of the pre-paid debit account is updated in real-time."

"Step 348 also shows transfer coordination module 206 sending a funds transfer requested notification message to merchant financial institution 90 over data network N. The funds transfer requested notification message alerts institution 90 to expect to receive eventually a transfer of the transaction amount to the merchant account maintained at merchant financial institution 90 from the customer financial institution 80. Such funds transfer requested notification message is depicted as event E14 in FIG. 1." (Col. 9, lines 27-35 - not specifically cited - emphasis added).

"Customer financial institution 80 can immediately transfer funds from the customer account to the merchant account at merchant financial institution 90, e.g., in accordance with usual banking procedures. For sake of simplicity, such transfer is depicted in FIG. 1 as event E15. As an option, customer financial institution 80 can also send to telepay TSN 30 a confirmation that the funds have been transferred from customer financial institution 80 to merchant financial institution 90. Merchant financial institution 90 in turn credits the merchant account with the transaction amount, which credit may possibly occur after a "float" delay." (Col. 9, lines 36-47 - emphasis added)

Appellant respectfully asserts that the excerpt relied upon by the Examiner merely teaches that the "[c]ustomer financial institution 80 can immediately transfer funds from the customer account to the merchant account at merchant financial institution 90" (emphasis added). Further, Hultgren teaches that "institution 90 [should] expect to receive eventually a transfer of the transaction amount to the merchant account maintained at merchant financial institution 90 from the customer financial institution 80" (emphasis added). However, the mere disclosure that the funds can be immediately transferred from the customer account to the merchant account and that the merchant account should eventually receive the transfer of the transaction amount, as in Hultgren, fails to suggest a technique

“wherein a balance of the pre-paid debit account is updated in real-time” (emphasis added), as claimed. Clearly, an immediate transfer from a customer account to a merchant account, as in Hultgren, fails to suggest that “a balance of the pre-paid debit account is updated in real-time” (emphasis added), as claimed by appellant.

In the Examiner’s Answer mailed 05/08/2008, the Examiner failed to address appellant’s above arguments and has argued that “[t]he additional remarks for the additional claims simply repeat the details in Hultgren and requite the appellants claims.” The Examiner has further argued that “the examiner believes there [are] no specific examples or arguments and therefore moot.” Appellant respectfully disagrees and points out the arguments made hereinabove which clearly distinguish the prior art relied on by the Examiner. Thus, appellant requests a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features.

Appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art reference excerpts, as relied upon by the Examiner, fail to teach or suggest all of the claim limitations, as noted above.

Group #5: Claims 9 and 26

With respect to Claim 9 et al., the Examiner has relied on the following excerpt from Hultgren to make a prior art showing of appellant’s claimed technique “wherein an alert is sent to a user upon the pre-paid debit account falling below a predetermined amount.”

“As indicated by step 316 of FIG. 3A, if the authorization assurance message is negative (indicating that authorization is not granted), an invalid transaction notification is sent to customer mobile station 60 (see step 318). Otherwise, as shown by step 320, the customer financial institution address and customer account identifier obtained from step 306, along with an indication of receipt of a positive authorization assurance message, are stored in the record for the current transaction in transaction database 220.” (Hultgren, Col. 7, lines 40-47 - emphasis added)

Appellant respectfully asserts that the excerpt from Hultgren relied upon by the Examiner merely suggests that “if the authorization assurance message is negative (indicating that authorization is not

granted), an invalid transaction notification is sent to customer mobile station 60” (emphasis added). Appellant notes, however, that such authorization assurance message is in response to a requested transaction. Thus, appellant respectfully asserts that sending an invalid transaction notification when the authorization assurance message is negative, in the context of Hultgren, fails to disclose a technique “wherein an alert is sent to a user upon the pre-paid debit account falling below a predetermined amount” (emphasis added), as claimed by appellant.

In the Examiner’s Answer mailed 05/08/2008, the Examiner failed to address appellant’s above arguments and has argued that “[t]he additional remarks for the additional claims simply repeat the details in Hultgren and requite the appellants claims.” The Examiner has further argued that “the examiner believes there [are] no specific examples or arguments and therefore moot.” Appellant respectfully disagrees and points out the arguments made hereinabove which clearly distinguish the prior art relied on by the Examiner. Thus, appellant requests a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features.

Appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art reference excerpts, as relied upon by the Examiner, fail to teach or suggest all of the claim limitations, as noted above.

Group #6: Claims 10 and 27

With respect to Claim 10 et al., the Examiner has relied on item 318 in Figure 3A from Hultgren, as excerpted below, to make a prior art showing of appellant’s claimed technique “wherein the wireless network voice communication and the IP usage is discontinued upon the pre-paid debit account falling below a predetermined amount.”



(Hultgren, Figure 3A, item 318)

“As indicated by step 316 of FIG. 3A, if the authorization assurance message is negative (indicating that authorization is not granted), an

invalid transaction notification is sent to customer mobile station 60 (see step 318)." (Hultgren, Col. 7, lines 39-42, not specifically cited - emphasis added)

Appellant respectfully asserts that the item and figure from Hultgren relied upon by the Examiner merely teach that "if the authorization assurance message is negative (indicating that authorization is not granted), an invalid transaction notification is sent to customer mobile station 60 (see step 318)." However, sending an invalid transaction notification when the authorization assurance message is negative, as in Hultgren, fails to even suggest a technique "wherein the wireless network voice communication and the IP usage is discontinued upon the pre-paid debit account falling below a predetermined amount" (emphasis added), as claimed by appellant.

In the Examiner's Answer mailed 05/08/2008, the Examiner failed to address appellant's above arguments and has argued that "[t]he additional remarks for the additional claims simply repeat the details in Hultgren and requite the appellants claims." The Examiner has further argued that "the examiner believes there [are] no specific examples or arguments and therefore moot." Appellant respectfully disagrees and points out the arguments made hereinabove which clearly distinguish the prior art relied on by the Examiner. Thus, appellant requests a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features.

Appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art reference excerpts, as relied upon by the Examiner, fail to teach or suggest all of the claim limitations, as noted above.

Group #7: Claim 36

With respect to independent Claim 36, the Examiner has relied on item 300 in Figure 3A from Hultgren, as excerpted below, to make a prior art showing of appellant's claimed "prior to allowing wireless network voice communication and IP usage over a wireless network, receiving a request for a pre-paid debit account from a user utilizing a mobile communication unit."



(Hultgren, Figure 3A, item 300)

"At telepay TSN 30, upon initially handling the call customer communications, module 202 obtains a customer identifier (e.g., customer directory number) from the call signaling which sets up the call (see step 300 in FIG. 3A)." (Hultgren, Col. 6, lines 22-26, not specifically cited - emphasis added).

Appellant respectfully asserts that item 300 in Figure 3A from Hultgren simply teaches that "module 202 obtains a customer identifier (e.g., customer directory number) from the call signaling which sets up the call (see step 300 in FIG. 3A)" (emphasis added). However, simply disclosing that a customer identifier is obtained, in no way suggests "prior to allowing wireless network voice communication and IP usage over a wireless network, receiving a request for a pre-paid debit account from a user utilizing a mobile communication unit" (emphasis added), as claimed by appellant.

In addition, the Examiner has argued that "it is inherent that [you] would...obtain a customer identification for those that request the payment transfer service or debit account."

Again, appellant respectfully disagrees, and emphasizes that simply disclosing that a customer identifier is obtained, in no way suggests "prior to allowing wireless network voice communication and IP usage over a wireless network, receiving a request for a pre-paid debit from a user utilizing a mobile communication unit" (emphasis added), as claimed by appellant. In fact, appellant respectfully points out that Hultgren actually discloses that "the customer merely dials on customer mobile station 60 the directory number of the telepay TSN 30," that the "call is routed through PSTN 50, which includes mobile base station (BS) 52," and that "upon initially handling the call customer communications, module 202 obtains a customer identifier" (Col. 6, lines 18-26).

Clearly, Hultgren discloses a situation where a customer utilizes a mobile station 60 to call a TSN 30, where such call is routed through a PSTN 50 that includes a mobile base station 52, which does not meet, and even *teaches away* from, appellant's claimed "prior to allowing wireless network voice communication and IP usage over a wireless network, receiving a request for a pre-paid debit

account from a user utilizing a mobile communication unit” (emphasis added), as claimed by appellant.

Thus, even if “it is inherent that [you] would...obtain a customer identification for those that request the payment transfer service or debit account,” as alleged by the Examiner, Hultgren teaches obtaining such customer identification via a call made from a customer mobile station, which in fact *teaches away* from appellant’s specific claim language, as noted above. Appellant respectfully emphasizes that a *prima facie* case of obviousness may also be rebutted by showing that the art, in any material respect, teaches away from the claimed invention. *In re Geisler*, 116 F.3d 1465, 1471, 43 USPQ2d 1362, 1366 (Fed. Cir. 1997).

It appears that the Examiner has relied on an inherency argument regarding the above emphasized claim limitations. Appellant respectfully asserts that the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). “To establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.’” *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

In view of the arguments made hereinabove, any inherency argument has been adequately rebutted, and a notice of allowance or a specific prior art showing of such claim features, in combination with the remaining claim elements is respectfully requested. (See MPEP 2112)

In the Examiner’s Answer mailed 05/08/2008, the Examiner has “refute[d] the argument and [has drawn] attention to Hultgren Figure 3A, item 300” which the Examiner has stated “clearly shows that the customer is contacted.” Additionally, the Examiner has argued that “it is inherent that if in the later steps of 306, 314 & 316 Hultgren obtains authorization for a financial [institution] for payment that a request was made.”

Appellant respectfully disagrees and again notes that Hultgren merely discloses that “module 202 obtains a customer identifier (e.g., customer directory number) from the call signaling which sets up the call (see step 300 in FIG. 3A)” (emphasis added). Additionally, Hultgren teaches that “[a]t step 306, telepay TSN 30 determines the customer financial institution address and the customer account identifier at the customer financial institution” (Col. 6, line 66-Col. 7, line 1 – emphasis added). Further, Hultgren teaches that at “step 314, customer financial institution interface 208-1 is directed to send the customer financial institution an authorization assurance request message,” which “includes... a message type code” which “indicates that telepay TSN 30 is seeking to determine whether the customer financial institution 80 will authorize a funds transfer from the customer account in the amount of the transaction amount” (Col. 7, lines 21-34 – emphasis added). Further still, Hultgren teaches that “[a]s indicated by step 316 of FIG. 3A, if the authorization assurance message is negative (indicating that authorization is not granted), an invalid transaction notification is sent to customer mobile station 60” (Col. 7, lines 39-42 – emphasis added).

However, merely obtaining a customer identifier from a call in order to set up the call, determining a (preexisting) customer financial institution address and customer account number at the financial institution, sending an authorization assurance request message to the financial institution (to determine if a funds transfer will be authorized from the preexisting customer account), and determining whether authorization is granted, as in Hultgren, fails to disclose “prior to allowing wireless network voice communication and IP usage over a wireless network, receiving a request for a pre-paid debit account from a user utilizing a mobile communication unit” (emphasis added), as specifically claimed by appellant.

More specifically, Hultgren discloses that a customer account number already exists at a financial institution, and that an authorization assurance request message is sent by the telepay TSN to the financial institution to authorize a funds transfer from the preexisting customer account. This does not disclose “receiving a request for a pre-paid debit account from a user utilizing a mobile communication unit,” much less “prior to allowing wireless network voice communication and IP usage over a wireless network, receiving a request for a pre-paid debit account from a user utilizing a mobile communication unit” (emphasis added), as claimed by appellant.

Additionally, based on the Examiner's above noted argument, it again appears that the Examiner has relied on an inherency argument regarding the above emphasized claim limitations. In view of the arguments made hereinabove, any such inherency argument has been adequately rebutted, and a notice of allowance or a specific prior art showing of such claim features, in combination with the remaining claim elements is respectfully requested (See MPEP 2112). Also, see *In re Rijckaert*, *In re Oelrich*, and *In re Robertson* hereinabove.

Furthermore, with respect to independent Claim 36, the Examiner has relied on item 222C in Figure 2 of Hultgren to make a prior art showing of appellant's claimed "prior to allowing the wireless network voice communication and the IP usage over the wireless network, receiving an account identifier associated with a previous account of the user which is adapted solely for voice communications."

Appellant respectfully asserts that the description of item 222C from Hultgren simply teaches "the customer financial institution address and customer account identifier from fields 222B and 222C," where "[t]elepay TSN 30 has...an ability to assure that the customer account has sufficient funds to cover the transaction amount prior to effecting the transaction" (Col. 7, lines 10-20). Thus, item 222C from Hultgren simply relates to a customer account identifier which identifies a customer account at a financial institution, which clearly does not meet appellant's claimed "receiving an account identifier associated with a previous account of the user which is adapted solely for voice communications" (emphasis added), as claimed. In addition, appellant notes that Hultgren only discloses "assur[ing] that the customer account has sufficient funds to cover the transaction amount prior to effecting the transaction," which does not specifically teach "prior to allowing the wireless network voice communication and the IP usage over the wireless network, receiving an account identifier associated with a previous account of the user which is adapted solely for voice communications" (emphasis added), as claimed.

In the Examiner's Answer mailed 05/08/2008, the Examiner failed to address appellant's above arguments and has argued that "[t]he additional remarks for the additional claims simply repeat the details in Hultgren and requite the appellants claims." The Examiner has further argued that "the examiner believes there [are] no specific examples or arguments and therefore moot." Appellant respectfully disagrees and points out the arguments made hereinabove which clearly distinguish the

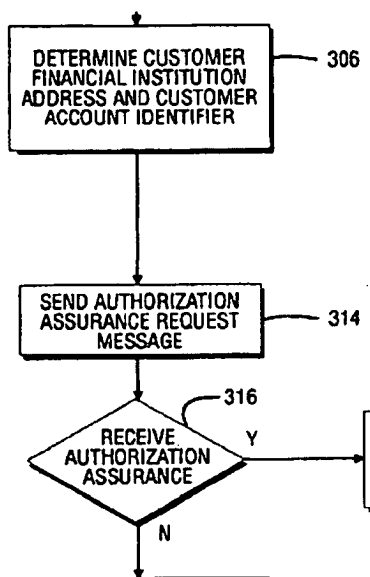
prior art relied on by the Examiner. Thus, appellant respectfully requests a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features.

Still with respect to independent Claim 36, the Examiner has relied on item 222A in Figure 2 of Hultgren to make a prior art showing of appellant's claimed "prior to allowing the wireless network voice communication and the IP usage over the wireless network, authenticating an identity of the user."

Appellant respectfully asserts that the description of item 222A in Hultgren merely discloses that the "customer search engine 208-3 locates a record in data base 222 having the customer identifier in field 222A" (Col. 7, lines 8-10). Clearly, only locating a record having a customer identifier, as in Hultgren, fails to specifically meet appellant's claimed "authenticating an identity of the user," and especially not "prior to allowing the wireless network voice communication and the IP usage over the wireless network, authenticating an identity of the user" (emphasis added), as claimed.

In the Examiner's Answer mailed 05/08/2008, the Examiner failed to address appellant's above arguments and has argued that "[t]he additional remarks for the additional claims simply repeat the details in Hultgren and requite the appellants claims." The Examiner has further argued that "the examiner believes there [are] no specific examples or arguments and therefore moot." Appellant respectfully disagrees and points out the arguments made hereinabove which clearly distinguish the prior art relied on by the Examiner. Thus, appellant requests a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features.

In addition, with respect to independent Claim 36, the Examiner has relied on items 306, 314, and 316 in Figure 3A from Hultgren, as excerpted below, to make a prior art showing of appellant's claimed "prior to allowing the wireless network voice communication and the IP usage over the wireless network, enabling a pre-paid debit account."



(Hultgren, Figure 3A, items 306, 314, and 316)

"At step 306, telepay TSN 30 determines the customer financial institution address and the customer account identifier at the customer financial institution. In particular, at step 306 the transfer coordination module 206 sends to the financial institution communication module 208 a signal which includes the current transaction code, the current customer identifier, and (optionally) the transaction amount." (Col. 6, line 66 to Col. 7, line 5, not specifically cited - emphasis added)

"The authorization assurance request message is routed by customer financial institution interface 208-1 over data network N to the customer financial institution address obtained at step 314. The authorization assurance request message, indicated as event E5 in FIG. 1, includes the transaction code, the customer account identifier, the transaction amount, and a message type code." (Col. 7, lines 24-30, not specifically cited - emphasis added)

"As indicated by step 316 of FIG. 3A, if the authorization assurance message is negative (indicating that authorization is not granted), an invalid transaction notification is sent to customer mobile station 60 (see step 318). Otherwise, as shown by step 320, the customer financial institution address and customer account identifier obtained from step 306, along with an indication of receipt of a positive authorization assurance message, are stored in the record for the current transaction in transaction database 220." (Col. 7, lines 39-47, not specifically cited - emphasis added)

Appellant respectfully asserts that items 306, 314 and 316 in Figure 3A from Hultgren relied upon by the Examiner merely disclose "determin[ing] the customer financial institution address and the customer account identifier at the customer financial institution" (emphasis added). Hultgren also discloses that "[t]he authorization assurance request message is routed ... to the customer financial

institution address obtained at step 314” (emphasis added). In addition, Hultgren discloses receiving “the authorization assurance message” in step 316.

However, determining the customer financial institution address and the customer account identifier in order to route the authorization assurance request message, as in Hultgren, simply fails to disclose any sort of enabling, let alone “enabling a pre-paid debit account” (emphasis added), as claimed by appellant. Moreover, determining the customer financial institution address and the customer account identifier in order to route the authorization assurance request message, as in Hultgren, in no way suggests “prior to allowing the wireless network voice communication and the IP usage over the wireless network, enabling a pre-paid debit account” (emphasis added), as claimed by appellant.

The Examiner has also argued that “items 306, 314 & 316...are all three more specific steps of enabling the payment transfer service or debit account.”

First, appellant respectfully disagrees and asserts that Hultgren simply teaches “assur[ing] that the customer account has sufficient funds to cover the transaction amount prior to effecting the transaction” (see Col. 7, lines 18-20), which does not specifically support the Examiners’ argument that Hultgren discloses “enabling the payment transfer service or debit account.” Second, appellant refers to the arguments made hereinabove with respect to items 306, 314, and 316 in Figure 3A from Hultgren and respectfully asserts that determining the customer financial institution address and the customer account identifier in order to route the authorization assurance request message, as in Hultgren, in no way suggests “prior to allowing the wireless network voice communication and the IP usage over the wireless network, enabling a pre-paid debit account” (emphasis added), as claimed by appellant.

In the Examiner’s Answer mailed 05/08/2008, the Examiner has “refute[d] the argument and [has drawn] attention to Hultgren Figure 3A, 306, 314 & 316” which the Examiner has stated “show the financial transaction is completed,” where the “financial transaction is to pay a merchant for a service.” Further, the Examiner has argued that “in the case of the Appellant the service would be mobile usage (voice and IP)” and that “Hultgren, column 4, line 49... supports this argument with an example that ‘\$100 US for a good or service’,” where “[t]his service is ‘enabled’ from a merchant once payment is received which is shown in Hultgren.”

Appellant respectfully disagrees. First, appellant respectfully points out that appellant clearly claims “prior to allowing the wireless network voice communication and the IP usage over the wireless network, enabling a pre-paid debit account” (emphasis added). As a result, appellant’s language should be construed as claimed.

Additionally, appellant again notes that items 306, 314 and 316 in Figure 3A from Hultgren relied upon by the Examiner merely disclose determining a (preexisting) customer financial institution address and customer account number at the financial institution, sending an authorization assurance request message to the financial institution (to determine if a funds transfer will be authorized from the preexisting customer account), and determining whether authorization is granted. Additionally, Hultgren teaches a situation where a “customer wants to pay \$100US for a good or service, or for payment of a bill or invoice” (Col. 4, lines 48-50).

However, disclosing that a customer account number already exists at a financial institution, and that an authorization assurance request message is sent by the telepay TSN to the financial institution to authorize a funds transfer from the preexisting customer account, in addition to disclosing that such a situation may arise when a customer wants to purchase a good or service, as in Hultgren, fails to disclose, and in fact *teaches away* from, “prior to allowing the wireless network voice communication and the IP usage over the wireless network, enabling a pre-paid debit account” (emphasis added), as claimed. Nowhere in the excerpts relied on by the Examiner is a pre-paid debit account “enabl[ed],” (emphasis added), as claimed.

Furthermore, with respect to independent Claim 36, the Examiner has admitted that Hultgren does not specifically disclose appellant’s claimed “payment for the IP usage.” However, the Examiner has argued that it is “inherent that any utility including a mobile phone company is disclosed in Hultgren,” and that “Hultgren specifically uses the example of ‘utility bill, for example’ (column 4, line 50).”

Appellant respectfully disagrees, and asserts that disclosing a situation where if a “customer wants to pay...for a good or service, or for payment of a bill or invoice (such as a utility bill, for example)...[then] the customer merely dials the directory number of the telepay” (see Col. 4, lines

48-50 of Hultgren – emphasis added), does not specifically suggest “IP usage,” as claimed by appellant.

Again, in view of the arguments made hereinabove, any inherency argument has been adequately rebutted, and a notice of allowance or a specific prior art showing of such claim features, in combination with the remaining claim elements is respectfully requested. (See MPEP 2112)

In the Examiner’s Answer mailed 05/08/2008, the Examiner failed to address appellant’s above arguments and has argued that “[t]he additional remarks for the additional claims simply repeat the details in Hultgren and requite the appellants claims.” The Examiner has further argued that “the examiner believes there [are] no specific examples or arguments and therefore moot.” Appellant respectfully disagrees and points out the arguments made hereinabove which clearly distinguish the prior art relied on by the Examiner. Thus, appellant requests a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features.

Appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art reference excerpts, as relied upon by the Examiner, fail to teach or suggest all of the claim limitations, as noted above.

Issue #2:

The Examiner has rejected Claims 12-15 and 29-32 under 35 U.S.C. 103(a) as being unpatentable over Hultgren (U.S. Patent No. 6,868,391), in view of Official Notice, and in further view of Foladare (U.S. Patent No. 5,914,472).

Group #1: Claims 12 and 29

With respect to Claim 12 et al., the Examiner has relied upon item 104 in Figure 1 from Foladare, the description thereof excerpted below, to make a prior art showing of appellant’s claimed “limiting the wireless network voice communication and the IP usage based on a user-defined threshold.”

"The account holder, who is the responsible person for the account, may also set a spending limit on the ancillary card, thereby restricting the spending power of the ancillary card user." (Foladare, Col. 4, lines 3-6, not specifically cited - emphasis added)

Appellant respectfully asserts that item 104 from Figure 1 merely indicates that the receiver checks to see the amount of credit available for the account holder. In addition, Foladare teaches that "[t]he account holder... may...set a spending limit on the ancillary card." However, the mere disclosure that an account holder may set a spending limit on the ancillary card, as in Foladare, in no way suggests "limiting the wireless network voice communication and the IP usage based on a user-defined threshold" (emphasis added), as claimed by appellant.

In the Examiner's Answer mailed 05/08/2008, the Examiner failed to address appellant's above arguments and has argued that "[t]he additional remarks for the additional claims simply repeat the details in Hultgren and requite the appellants claims." The Examiner has further argued that "the examiner believes there [are] no specific examples or arguments and therefore moot." Appellant respectfully disagrees and points out the arguments made hereinabove which clearly distinguish the prior art relied on by the Examiner. Thus, appellant requests a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features.

Appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art reference excerpts, as relied upon by the Examiner, fail to teach or suggest all of the claim limitations, as noted above.

Group #2: Claims 13 and 30

With respect to Claim 13 et al., the Examiner has relied on Official Notice to make a prior art showing of appellant's claimed technique "wherein the user-defined threshold limitation expires after a predetermined time period." Specifically, the Examiner has argued that "it is well known to one of ordinary skill in art at the time of the invention that any variable set by the user can have time limits associated with it" because it "is just good practice to never have user inputs without time limitations on these inputs."

Appellant respectfully disagrees and asserts that the suggestion of the account holder spending limit on the ancillary card, as in Foladare, expiring after a time limit, as suggested by the Examiner, would actually prevent the account holder from being in control of the spending of the ancillary card via the set spending limits, as in Foladare. Thus, such alleged knowledge (as purported to exist by the Examiner) actually *teaches away* from the purpose of the set spending limit in Foladare's system. To this end, Foladare's spending limit on the ancillary card, in conjunction with the Examiner's Official Notice argument, fails to suggest a technique "wherein the user-defined threshold limitation expires after a predetermined time period" (emphasis added), as claimed by appellant.

In response to the Examiner's dismissal of appellant's above noted claim limitations under Official Notice, appellant again points out the remarks above that clearly show the manner in which some of such claims further distinguish the prior art relied on by the Examiner. Appellant thus formally requests a specific showing of the subject matter in ALL of the claims in any future action. Note excerpt from MPEP below.

"If the applicant traverses such an [Official Notice] assertion the examiner should cite a reference in support of his or her position." See MPEP 2144.03.

In the Examiner's Answer mailed 05/08/2008, the Examiner failed to address appellant's above arguments and has argued that "[t]he additional remarks for the additional claims simply repeat the details in Hultgren and requite the appellants claims." The Examiner has further argued that "the examiner believes there [are] no specific examples or arguments and therefore moot." Appellant respectfully disagrees and points out the arguments made hereinabove which clearly distinguish the prior art relied on by the Examiner. Thus, appellant requests a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features.

Appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art reference excerpts, as relied upon by the Examiner, fail to teach or suggest all of the claim limitations, as noted above.

Group #3: Claims 14, 15, 31 and 32

With respect to Claim 14 et al., the Examiner has relied on items 104 and 116 in Figure 1 from Foladare, the description thereof excerpted below, to make a prior art showing of appellant's claimed technique "wherein the user-defined threshold limitation expires upon receipt of a key."

"The remote transaction service provider receives the transaction card information and transaction amount as entered by the merchant at step 100 and proceeds to retrieve account information related to the transaction card at step 104." (Foladare, Col. 4, lines 23-27, not specifically cited)

"If the account holder approves the increased transaction amount at step 116, the remote transaction service provider central computer transmits an approval code for the transaction to the merchant at step 120. If the account holder does not approve the transaction at step 116, the remote transaction service provider central computer will transmit a refusal code to the merchant denying completion of the transaction at step 118." (Foladare, Col. 4, lines 49-57, not specifically cited - emphasis added)

Appellant respectfully asserts that item 104 in Figure 1 only indicates a step in a transaction process where a remote transaction service provider retrieves account information related to an transaction card. In addition, item 116 in Figure 1 merely indicates a step in the transaction process where an account holder has the option to approve or not approve an increased transaction amount. However, the mere disclosure of retrieving account information and an authorization step in a transaction process in no way suggests a technique "wherein the user-defined threshold limitation expires upon receipt of a key" (emphasis added), as claimed by appellant. Clearly, an approval code or a refusal code, as disclosed by Foladare, fails to even suggest that "the user-defined threshold limitation expires upon receipt of a key" (emphasis added), in the manner as claimed by appellant.

In the Examiner's Answer mailed 05/08/2008, the Examiner failed to address appellant's above arguments and has argued that "[t]he additional remarks for the additional claims simply repeat the details in Hultgren and requite the appellants claims." The Examiner has further argued that "the examiner believes there [are] no specific examples or arguments and therefore moot." Appellant respectfully disagrees and points out the arguments made hereinabove which clearly distinguish the prior art relied on by the Examiner. Thus, appellant requests a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features.

Appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art reference excerpts, as relied upon by the Examiner, fail to teach or suggest all of the claim limitations, as noted above.

Issue #3:

The Examiner has rejected Claims 16-17 and 33-34 under 35 U.S.C. 103(a) as being unpatentable over Hultgren (U.S. Patent No. 6,868,391), in view of Official Notice, in view of Foladare (U.S. Patent No. 5,914,472), and in further view of Holm-Blagg (U.S. Patent Application No. 2004/0030657).

Group #1: Claims 16-17 and 33-34

Appellant respectfully asserts that the subject matter of such claims is deemed novel in view of the arguments made hereinabove with respect to Issue #1, Group #1.

Appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art reference excerpts, as relied upon by the Examiner, fail to teach or suggest all of the claim limitations, as noted above.

In view of the remarks set forth hereinabove, all of the independent claims are deemed allowable, along with any claims depending therefrom.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 971-2573. For payment of any additional fees due in connection with the filing of this paper, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1351 (Order No. AMDCP005).

Respectfully submitted,

By: /KEVINZILKA/

Date: July 8, 2008

Kevin J. Zilka
Reg. No. 41,429

Zilka-Kotab, P.C.
P.O. Box 721120
San Jose, California 95172-1120
Telephone: (408) 971-2573
Facsimile: (408) 971-4660